

R E P O R T O N W A T E R R I G H T S

M O N T I C E L L O , U T A H

HORACE W. SHELEY
Referee 1914--1916

MICROFILMED

STATE OF UTAH |
 | SS.
COUNTY OF SALT LAKE |

Horace W. Sheley, being first duly sworn, states that the information in this book is true and correct, to the best of his knowledge and belief, and expresses his honest opinion of the rights in the cases.

/s/ Horace W. Sheley

Subscribed and sworn to before me this 6th, day of June, 1916.

/s/ Lulu E. Parsons
Notary Public.

(Seal)

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SPRING CREEK RIGHTS.

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/s/ H.W.S.

SUMMARY

SPRING CREEK RIGHTS.

Giving the approximate Duty of Water, which is expressed as the number of acres to be irrigated by each second-foot, and the Rate of Flow in Second Feet. (The smaller flows should be increased, and the time lessened, by a system of rotation to be worked out by claimants and the water commissioner).

Priority 1. Gordon Spring.

Unknown flow for domestic and culinary purposes.

Priority 2. Carlisle 1887 Right.

Area: 166.5 acres. Duty: May 1st to 30th, 110 acres; June 1st to 15th, 90 acres; June 16th to Aug. 31st, 60 acres. Flow in these periods 0.75; 0.9; 1.4 sec. ft., respectively, by assumption that North Fork furnishes its half of the water supply. If North Fork supplies none, the flow from Spring Creek would reach a maximum of 1.5, 1.8, and 2.8 sec. ft., respectively.

Priority 3. Bailey 1893 Right.

Area: 47.0 acres. Duty: same as that of Priority 2. Flow. In May, 0.4 sec. ft; June 1-15th, 0.5 sec. ft; June 16th to August 31st, 0.8 sec. ft.

Priority 4. King 1894 Right.

Area: 33.0 acres. Duty: same as that of Priority 2. Flow. In May, 0.3 sec. ft; June 1-15th; 0.4; June 16th to August 31st, 0.5 sec.ft.

Priority 5. (Gordon Reservoir on North Fork)

Priority 6. Carlisle 1897 Right.

Area: 16.7 acres. Duty: same as that of Priority 2. Flow: In May, 0.1 sec. ft; June 1-15th, 0.1 sec. ft; June 16th to August 31st, 0.15 sec. ft. This on the same assumption as Priority 2. The maximum flows would be 0.2, 0.2, and 0.3 sec. ft. from Spring Creek.

Priority 7. Green 1898 Right.

Area: 26.0 acres. Duty: same as that of Priority 2. Flow: In May, 0.25 sec. ft; June 1 to 15th, 0.3 sec. ft; June 16th to Aug. 31st, 0.4 sec. ft

Priority 8. Carlisle 1904 Right.

Area: 68.4 acres. Duty: same as that of Priority 2. Flow: In May, 0.3 sec. ft; June 1 to 15th, 0.4 sec.ft; June 16th to Aug. 31st, 0.6 sec.ft.

Priority 9. Bailey 1906 Right.

Area: 49.3 acres. Duty: same as that of Priority 2. Flow: In May, 0.4 sec. ft; June 1 to 15th, 0.5 sec. ft; June 16th to Aug. 31st, 0.8 sec. ft.

Priority 10. Jaramillo 1907 Right and Spencer 1907 Right.

Area: 32.6 acres for both rights, 16.4 for Jaramillo, 16.2 for Spencer. Duty: same as that of Priority 2; Flow for both: In May, 0.3 sec. ft; June 1-15th, 0.4 sec. ft; June 16th to August 31st, 0.6 sec. ft; to be allotted equally between the two rights.

Priority 11. Application No. 2173.

Area for direct, or natural flow, 220.4 acres, for stored water, 273.7 acres. Duty: Fixed by State. Flow: Decreased, on account of acreage taken out for prior rights, to 1.8 sec. ft. for June 10th to August 15th, incl. Also, 205.5 acre-feet of storage water, from January 1st to December 31st, but filling of reservoir to start immediately after the irrigation season, and proceed as rapidly as possible.

Priority 12. Green 1909 Right and Spencer 1909 Right.

Area: Green 17.8 acres, Spencer, 21.5 acres; total 39.3 acres. Duty: In May, 90 acres; June 1st to 30th incl; 60 acres. Flow: 0.4 and 0.7 sec. ft. respectively, divided 45% of the time or flow to Green, and 55% to Spencer et al.

Remarks. No water available after July 1st, except during a "cloud burst".

Priority 13. Application No. 3952a.

Area: Not fully developed in 1914: Duty: This application is still pending in the Office of the State Engineer. Suggested, In May, 90 acres June 1st to 30th, 60 acres; Flow: in proportion to area cultivated until proof be made.

Priority 14. Trujillo and Manzanares 1911 Rights.

Area: Trujillo, 0.8 acres; and Manzanares 5.3 acres, total 6.1 acres. Duty: 60 acres, May 1st to June 30th: Flow: for both; 0.1 sec. ft. divided one-eighth of time or quantity to Trujillo, seven-eighths to Manzanares.

Priority 15. Application No. 4006.

(See priorities 7 and 12)

Priority 16. Application No. 4370.

Area: Not fully developed in 1914. Duty (Suggested) April 1st to 30th, 90 acres; May 1st to June 30th, 60 acres. Flow; in proportion to area cultivated until proof be made. Remarks: Dry Valley is one thousand feet lower than the Monticello plateau, and requires earlier irrigation.

Priority 17. Trujillo and Manzanares 1912 Rights.

Area: 15.7 acres each, total 31.4 acres. Duty: April 16th to 30th, 90 acres; May 1st to June 30th, 60 acres. Flow: 0.35 and 0.5 sec. ft. respectively, divided equally in time or amount between claimants.

Priority 17 (Cont.) Carlisle 1912 Rights.

Area: 98.7 acres. Duty (joint from either North Fork or Spring Creek): May 1st to 15th, 120 acres; May 16th to 31st, 90 acres; June 1st to Aug. 31st, 60 acres. Flow (joint): 0.8, 1.1, and 1.6 sec. ft., respectively, of which one half is supposed to come from either source unless a deficiency in either stream requires that more be taken out of the other. Flow (from Spring Creek only): April 16th to April 30th, incl.; 0.5 sec. ft.

Priority 18 Vigil 1913 Right.

Area: 8.2 acres. Duty: April 10th to 30th, 90 acres; May 1st to June 30th, 60 acres. Flow: 0.1 and 0.15 sec. ft., respectively.

Priority 19. Application No. 5473.

Area: Calls for 800 acres. Not developed in 1914. Duty (Suggested) April 1st to 30th, 90 acres; all May and June, 60 acres. Flow: in proportion to the area cultivated until proof be made. Remarks: this is another

Dry Valley filing, See Priority 16.

Priority 20. Application No. 5621.

Area. Calls for 1600 acres. Not developed in 1914. Flow: Filing calls for 25 sec. ft., which would exhaust the balance of unappropriated water in Spring Creek.

Later Priorities.

See Priority 20.

Rights In The Basin Of
SPRING, OR VEGA, CREEK.

Priority 1. GORDON SPRING RIGHT.

A. Description.

This spring issues in the S.E. $\frac{1}{4}$ of the S.W. $\frac{1}{4}$ of Sec. 36., T. 32 S., R. 23 E., S.L.M. It appears to have been used from the earliest date by the cattlemen of the interests called herein the "Carlisle Ranch", and by their successors.

B. Opinion.

The use of this spring for domestic and stockwatering purposes undeniably belongs to the "Carlisle Ranch", that is L. H. Redd, et al, as the senior right on Spring Creek.

C. Remarks.

It is unknown whether this spring is the "Clay Cabin Spring" referred to by Esther E. Carlisle in her final proof for "desert land, 03353, made December 30, 1891, as one source of irrigation.

Priority 2. CARLISLE 1887.

A. Description.

This is the right instituted by a County filing upon North Fork in 1886, and followed in 1887 by a diversion and application of waters from Spring and North Fork Creeks to beneficial use, by the predecessors in interest to the "Carlisle Ranch". This right is prior to the "Bailey 1893" and "King 1894" rights on Spring Creek. As stated elsewhere, it is held now by L. H. Redd et al.

B. Opinion.

It is considered just that the Carlisle Ranch take water in equal amounts from Spring Creek and North Fork, whenever it is possible to do so, and make up any deficiency in either stream, by additional diversion from the other stream. All measurements shall be made near the point of

diversion. When from Spring Creek, make no allowance for seepage losses. Measure the water from North Fork at the point of diversion between the Blue Mountain Irrigation Co. and the Carlisle Ranch with an additional allowance of 1 second foot for seepage losses in transit. The right on North Fork is more clearly described in the discussion of that stream.

Further, unless Carlisle Ranch shall provide methods to avoid emptying water from North Fork into Spring Creek, it shall provide and maintain at its own expense, suitable measuring devices at the point or points North Fork is emptied into Spring Creek, in order to use the latter as part of the canal system, as well as at the point of separation from it.

C. Remarks.

(1) There was a demand made that the Carlisle Ranch be required to choose one stream as the principal and primary source of supply, and water be taken from the other only to supply deficiencies in the chosen stream, but even after diligent inquiry no substantial evidence has been presented to show preference of the Carlisle Ranch for the waters of Spring Creek over those of North Fork, or the reverse, by established practice or assertion of right. The facts appear to be that at times North Fork has more water than Spring Creek, and therefore is the chief source of supply for the Carlisle Ranch, and at other times the contrary is true, owing to the different exposures of their watersheds and consequently different rates of melting of snow, together with local showers in Summer that may fall on one watershed and not the other. The Esther E. Carlisle desert land entry 03353, dated February 10th, 1888, says that water will be taken from the "north branch of Spring Creek", and the final proof gives Spring Creek and Clay Cabin Springs as the sources of supply. (See the letter from the U. S. General Land Office to Shelley). On the contrary, the copies of posted notices of John Beckett, et. al. who preceded the present day holders of title to Carlisle Ranch, named North Fork as their supply

for desert lands in November, 1886. Thus both streams were claimed by Carlisle Ranch many years before any claims by others on Spring Creek.

Therefore it is believed that substantial injustice would be done, and unwarranted interference made with property, if Carlisle Ranch be forced to take one-stream as the chief source of supply. In effect, this would mean combining the flows of Spring Creek, North Fork, and South Fork together mathematically, and adjudging rights on this imaginary total supply: By this basis the early Bailey or Green rights on Spring Creek could demand that Carlisle Ranch take its water by preference from North Fork; that the Blue Mountain Irrigation Company make up the deficiency, so caused, by taking more water from South Fork; which would tend to the greater exhaustion of South Fork and the injury of the Pioneer ditch interests. Manifestly such a course would be absurd. Only one similar case has been found in the records of Supreme Courts (i.e. Norman vs. Corbley, 32 Montana 195, 79 Pacific 1059, section 8) where it was held that an appropriator having prior rights on two streams cannot be required to exhaust his rights on one before using the other.

It is believed that the Opinion is in accord with the practice and habits of Carlisle Ranch in this matter. Moreover the cross-arrangement of ditches, enabling irrigation from either stream, is corroboratory.

(2) These fields are included in this right and not other fields, which are included in later rights of Carlisle Ranch, because they appear to have been the first irrigated, and after them in point of time came King, Bailey, and the predecessors of Green, who irrigated certain areas, before the extension of the irrigated area by Carlisle Ranch. Herein the evidence of the old pole fence bears out that of many witnesses.

The legal attitude taken here is described in General Remarks, where it is held that the time of actual diversion and application to beneficial use constitutes the basis of priority of rights of this

character. According to claimants own testimony (Temp. No. 37) irrigation started in 1887, and the area irrigated was increased annually until 1890, after which there was no further increase for 7 years. This Right closes with the year 1890. The filing of a claim with the recorder of San Juan County upon North Fork, and the apparent failure, so far as is known, to do so upon Spring, is not construed to mean that North Fork was the first or primary source of supply for the Carlisle Ranch. In fact it might be interpreted that Spring Creek was already being used, and the Carlisle Ranch believed there was no question about their rights to its waters, but thought it necessary to make a filing before diverting North Fork out of its natural basin. Such a filing was unnecessary in instituting a right. Where theories are debatable, the fact that both streams were used, is a firm place to stand.

D. References.

Water Users Claim "Temporary Numbers", 31 (Inclu. A, B, C, etc.); 32; 33 to 39, incl; 101 to 111, incl., 113, 114, 115, 116, 117, et. alia.

E. Fields.

(Acreage of individual fields may be obtained from the maps.)
Fields No. 563-568, incl; undivided part (10 acres) of #571; 584-590^{(-589 (HWS))}
(590)(HWS)
inclu; 587-a; 594; Amounts to 166.5 acres for water right (after deducting Field No. 587 which is swampy, and forms an alternative place of use, (for 9.9 acres and likewise No 589 for 9.2 acres. HWS.) only), ~~and likewise Field No. 592 (9.2 acres)~~.

F. Canals.

Carlisle (from North Fork); Spring Creek No. 13, No. 10, No. 10a, No. 12.

G. Rate of Flow and Quantity in Season.

(See summary of rights given elsewhere.)

Priority 3. BAILEY 1893.

A. Description.

This is the lowest diversion from Spring or Vega Creek, and was first made by Nephi Bailey, and afterwards deeded to Julius Bailey. It was instituted by actual application to beneficial use accompanied

by a filing with the County Recorder. It arose in the seven year period when the Carlisle Ranch, by its own testimony, was not increasing the area irrigated.

B. Opinion.

That this right is considered secondary to (Gordon Spring,) Carlisle 1887, and primary to the King 1894 Right, and to other diversions from Spring Creek. After satisfying prior rights, sufficient of the remaining water shall be permitted to pass the headgates of secondary ditches, plus any seepage or waste waters accruing in the stream above the intake of this claim, to satisfy this right. It is understood that return seepage or waste water accruing to the stream will be considered a part of the stream flow, for this purpose.

This Right is entirely dependant upon Spring Creek and not at all upon North Fork.

C. Remarks.

The value and effect of filings upon water and its application to beneficial use is considered elsewhere in General Remarks. It was sought to establish a claim upon North Fork as a direct source of supply, but the evidence was overwhelmingly against this.

D. References.

Water Users' Claims Temp. No. 24, 44, 112, et. alia.

E. Fields.

(Acreage of each field may be found on the Lower Vega Creek Area map)

Includes Field Nos. 628-a, 629, 630, 630-a, 630-b, 641, 642, 643, 644, with a total acreage of 47.0 acres.

F. Canals.

Irrigated by Spring Creek Ditch No. 20.

Priority 4. "KING 1894" RIGHT.

A. Description.

This irrigates four parcels of land, three of which are claimed by both the Carlisle Ranch and Peter Bailey, namely Fields numbered 580, 596, 597, and the fourth, No. 598 is owned by Peter and Nephi Bailey.

B. Opinion.

That this Right be regarded as the third in diversion from Spring Creek, (aside from Gordon Spring) and a sufficient flow of water be permitted to pass down the stream to satisfy it, before giving water to any right secondary to it in such a way as to deprive this Right of the amount given, in whole or in part. Further, that decision about the ownership of this land and water is not within the bounds of this arbitration, but for the purpose of this work the water right be considered appurtenant to the lands in dispute.

C. Remarks.

Fortunately, there is no dispute regarding the facts in the history of irrigation of these tracts, both disputants claiming that one W. A. King instituted the right in or about 1894 by a county filing and construction work.

D. References.

Water User Claims Temp. No. 21, 31 DD, 60, et alia.

E. Fields.

(Acreage of each field may be found on the map) #580, 596, 597, 598. (Total area is 33.0 acres.) *added in ink*

F. Canals.

Spring Creek No. 16 and No. 16-b.

Priority 5. CARLISLE 1896 RIGHT.

A. Description.

This is the storage right in the so-called Gordon reservoir which has been used to supplement the natural supply of North Fork and Spring Creek in the low water season, but which derives its water wholly from North Creek and is described in the description of rights

on that stream under Priority 2.

Priority 6. CARLISLE 1897 RIGHT.

A. Description.

This Right belongs to the Carlisle Ranch, and is based upon lands reclaimed by it subsequently to the Bailey 1893, King 1894, and Carlisle 1896 (North Fork, only) rights, up to May 1908. It takes water from both Spring and North Fork Creeks. The land of field No. 533a appears to belong to Geo. B. Spencer.

B. Opinion.

This Right shall be governed by the same considerations as expressed in Carlisle 1887 Right, except, first, that the priority is later, and second that 1/2 sec. ft. shall be added to the measurement from Carlisle to provide for seepage. Further, if Carlisle Ranch be unable to make terms with Geo. B. Spencer for the water right to Field 533-a, it shall have the right to transfer the use of this water elsewhere, without the loss of priority, subject to the provisions of Law in change of place of use.

C. Remarks.

See under Carlisle 1887 Right. Also, it is held that the Carlisle Ranch instituted the right to Field No. 533-a, although trespassing on land that was public at the time, and therefore is entitled to the water right. See this in Patterson vs. Ryan (Utah) 108 Pac. p. 1118; Wiel Water Rights, Sec. 281.

D. References.

Water Users' Claims, Temp. No. 27, 30, 31 (incl. A, B, &); 32, 33 to 39 incl., 101 to 111, incl.; 113 to 117, incl; et alia.

E. Fields.

No. 533, 533a, 553, for 9.7, 1.5, 5.5 acres, total 16.7.

F. Canals.

Spring Creek Ditch No. 10 and No. 11 and Carlisle Ditch from North Fork through Spring Creek.

Priority 7. GREEN 1898 RIGHT.

A. Description.

This is an early right instituted by squatters on the land which was afterwards homesteaded and then sold to H. G. Green, the present claimant. The right was developed from 1898. In 1911 this right was covered by State Engineer's Application No. 4006.

B. Opinion.

This right applies to the cultivated lands, only, that were put under irrigation from 1898 to 1900. The gap of nine years from 1900 to 1909, during which no increase in acreage was made, according to the testimony of its claimant, permits others who put land under irrigation in this period to intervene in right. This priority is for 26 acres in any part of Fields No. 506 to 513, inclusive. State Engineer's filing No. 4006 is held not to constitute abandonment of this priority. In addition to this flow diverted directly from Spring Creek, there is a spring flowing into a ditch that is tributary now to ditch No. 2; this water appears to have been a source of domestic and stock-watering supply; and is so considered here, from January 1st to December 31st, and a flow of about 15 sec. feet.

C. Remarks.

The most distinctive question with this priority is whether irrigation of pasture is a beneficial use. In this particular instance, the State Engineer has said that it is, and has issued a certificate accordingly. This would be regarded as conclusive if it were not known that the State appropriates insufficient funds to permit the inspection of water applications in the field by the State Engineer or an assistant, and the Engineer must take the statement of claimant at par. It is safe to say that of the applications and proofs submitted to the State Engineer for beneficial use in irrigation, only few describe the actual field conditions with desirable accuracy and full understanding of what should be

shown. An example of this is the present application. If the State Engineer had known, and it is certain that he did not, that the application was for water which had already been diverted and used to irrigate the land described in the application, some dozen years before, he would not have received the application, and could not grant it for water already appropriated, unless the claimant intended to abandon the prior right. The claims for water for pasturage in the midst of original brush are rejected because, as stated in General Remarks, such use is not beneficial in this region, being highly wasteful of a precious fluid and with but small returns. In this particular instance, no evidence that the land was being irrigated for pasture showed when the Sheley survey was made in June, 1914, and the land was covered mostly with oak brush. By contrast a "grassy glade" as it is called on the map, situated one quarter of a mile westerly, which is without any irrigation, appeared to be a much better pasture.

As stated elsewhere in General Remarks, to hold to the priority of the first appropriation, the appropriator must show due diligence and act within a reasonable time. Nine years delay, under the conditions, is considered too long.

D. References.

Water User's Claims Temp. No. 43,110, et alia.

E. Fields.

(The acreages of each field is shown on Sheley's Green Area Map)
Includes 26 acres in undivided Fields No. 506-513, inclusive.

F. Canals.

Spring Creek No. 2, and unnamed ditch from an unnamed spring.

Priority 8. CARLISLE 1905 RIGHT.

A. Description.

Towards the end of the great drouth of 1898 to 1905, the Carlisle Ranch resumed the enlargement of canals and cultivation and irrigation of additional areas, making annual additions from 1905 to 1909, which constitute this right.

B. Opinion.

The 1897 Carlisle right is held to have ended in 1898, with the abandonment of developments in 1898. The right under consideration extends to 1909 and ends therewith. It constitutes a further joint diversion from North Fork and Spring Creek by Carlisle Ranch, and a further right of said claimant to Spring Creek. Both of said streams are equally subject to this right in the manner described in Priority 2, Carlisle 1887. No allowance or addition shall be made to the waters of North Fork, as with previous Carlisle Rights, to provide for seepage.

C. Remarks.

There is no doubt that intervening appropriations between Carlisle 1897 Right and this one are senior in value to this. The long lapse of time between, as shown by claimants repeated statements in Claims Temp. No. 37, 38 &, and the enlargements made in ditches as evidenced in Claim Temp. No. 116. show that in fact this is a new right. The fields are selected out of those irrigated in 1914, as shown on the Shelley maps, less those believed to have been irrigated by Carlisle Ranch' earlier and later rights. It is considered that the allowance of 1.0 and 0.5 sec. ft., total 1.5 sec. ft., given in previous rights of Carlisle Ranch to North Fork will overcome any extraordinary losses due to the long channel from that source of supply to the irrigated lands, for later applications also, since the proportionate losses decrease as a canal is filled.

D. References.

Water Users' Claims Temp. No. 31 (A, B &); 32; 33 to 39, incl; 101 to 111; 113 to 117, incl; et alia.

E. Fields.

(The area of individual fields is printed on the Sheley maps, Spencer and Carlisle Areas). Includes Fields No. 535, 535a, 536, 581 (583 (HWS)) 582, ~~583~~, 593, ~~593~~. (Total area is 68.4 acres. HWS.) *added in ink.*

F. Canals.

Spring Creek No. 14-a, No. 9, and No. 13, from Spring Creek directly, and indirectly from North Fork by Carlisle Ditch.

Priority 9. BAILEY 1906 RIGHT.

A. Description.

These are rights acquired by Peter Bailey along about 1906, without a filing in the Office of the State Engineer, but by actual application to beneficial use, although afterwards these lands were covered by such an Application, namely No. 2173.

B. Opinion.

That the fields be entitled to water from flow of Spring Creek, only, according to the priority of this Right, whether such water be return seepage or the natural flow of the stream, or both. Further that filing No. 2173 did not constitute an abandonment of this Right.

C. Remarks.

The effect of a later filing in the Office of the State Engineer upon an earlier right is discussed in General Remarks. In addition, in this instance, the later filing named a different canal for irrigation of this land yet the fields continue to be irrigated by the old canal. The possibility that the use of stored water, at the time when direct, or natural, flow is available in right and fact, would constitute an abandonment of the direct flow right, is discussed in General Remarks.

D. References.

Water Users' Claim Temp. No. 23, 44, 112, et alia.

E. Fields.

No. 617-a, 1.7 acres, No. 618, 3.8 acres; No. 619, 43.8 acres;
total 49.3 acres.

F. Canals.

Spring Creek No. 18.

Priority 10. Jaramillo; Spencer; Redd; & Knight, 1907.

This priority embraces four claims equal in time and, according
to their respective acreages, in right to the waters of Spring Creek.

Jaramillo 1907 Right.

A. Description.

This filing was instituted in May, 1907, by the construction of
a dam and Spring Creek Ditch No. 17, and by the irrigation of land.
The area irrigated was increased the next year. Also he irrigated a
small area of 1.0 acre under Spring Creek Ditch No. 18 which leads
to land of Peter Bailey.

B. Opinion.

That this Right is equal in all respects to that of Redd,
Spencer, and Knight of the same date, 1907. The measurement for
Jaramillo shall be made at his headgate and at the head of Ditch
No. 18. A system of rotation may be enforced upon these rights.
This right of Jaramillo's applies solely to the lands irrigated
by Spring Creek Ditches No. 17 and No. 18.

C. Remarks.

The reasons for rejection of the claim to water from Spring
Creek to irrigate land through Spring Creek Ditch No. 16-a are
explained under Jaramillo Seepage Right, & in the discussion of
seepage rights on Spring Creek.

D. References.

Water Users' Claim Temp. No. 20, et alia.

E. Fields.

No. 599, 600, and 616-a, total area 16.4 acres.

F. Canals.

Spring Creek D. No. 17 and No. 18.

A. Description.

This is the claim upon Spring Creek instituted by construction work and irrigation in 1907 by J. M. Redd, Brigham Spencer, and W. O. Knight, and increased in 1908. The interests of all three claimants are discussed together, because instituted together.

B. Opinion.

It is considered that this right of Knight and Spencer is equal to that of Jaramillo and Redd, all of priority 1907; that it begins in May 1907, and terminates with Peter Bailey's Application No. 2173 in the Office of the State Engineer. The right holds for the natural flow of the waters of Spring Creek, in the order of Priority of right, which shall be measured at the headgate of the canal. Evidence not showing specifically the areas irrigated by Spencer and Knight in 1907 and 1908, it is deemed just that seven (7) acres of right for this priority, which shall be confined in application to the areas named in Spencer et al, 1909 Right, be granted for said Spencer and Knight. The Redd right shall be for Field No. 554, and he shall provide satisfactory headgates and measuring devices for both headings, Ditch No. 10 and No. 10a, both of which irrigate said parcel of land through Ditch No. 10, or abandon one of these headings. Spencer and Knight shall designate which fields the 1907 right apply to, within 30 days of the filing of this report at Monticello, to the General Committee of the Water Users' Association.

Measurements shall be made at the canal headgates, and a system of rotation may be enforced for all rights under Priority 10. (Fields No. 551, 552, 554, 558, 558a obtain part of their supply from North Fork).

C. Remarks.

The replies in Water Users' Claim Temp. 27 to Question 10-c, "Not completed just enlarged each year" and 10-d, "Work on ditches"; and 11-c, "Not completed", all indicate that the practice has been to enlarge the ditches so that they will carry more water each year;

and not to build a ditch of sufficient size in the first place to take care of greater areas of land as they were cleared each year. Corroborative of this is Redds answer to Question 11-d, Claim Temp. No. 28. There was no written public notice or filing until 1911, so every element of publicity to show the final intentions of the claimants was absent until 1911. Therefore it is manifest that any clearly defined appropriations of others coming into this period of expansion would be senior to Spencer et al, enlargements made after it.

For this, see Wiel on Irrigation, Section 484, p. 513 and 514. Also, Becker V. Marble cr. etc. Co, 49 Pac. 892, and this references. This in effect is substantially the position taken with the rights of Carlisle Ranch.

The first intervening right is that of Peter Bailey in Application No. 2173 in the Office of the State Engineer, dated November 28, 1908. Therefore the irrigation season of 1908 witnesses the expiration of this first right.

The evidence is altogether insufficient and too conflicting to determine the actual acreage, (that is the certain fields,) *in ink.* irrigated by and in 1908, hence this matter must be left open. If there be any disposition to question the justice of this attitude, further reliance in its fairness may come when it is considered that the effect of the Utah statute requiring filings may be hereafter held, by the Supreme Court here as in Idaho, to mean forfeiture of the right of appropriations without filings to date their priority back to the time of beginning of reclamation. See this in General Remarks and in Nielsen vs. Parker et al. (Idaho) 115 Pac. Rep. p. 488.

D. References.

Water Users' Claims Temp. No. 27, 27a, 27b, 28, 110, 115, et alia.

E. Fields.

Includes 7 acres (for Knight and Spencer) in any part of Fields No. 527 to 531, 551 and 552, 534a, which are named also in Spencer (et al) 1909 Right and 9.2 acres for Redd in Fields No. 554, 558, and

558a. These fields are listed in the Tabulation of Fields as Spencer 1909 Right, also.

F. Canals.

See Spencer et al. Spring Creek No. 8, 9, 10, 10a; For Redd, Spring Creek No. 10 and No. 10-a.

Priority 11. APPLICATION NO. 2173.

A. Description.

This is the first Application in the Office of the State Engineer for waters of Vega, or Spring Creek. It was filed on November 28, 1908, by Peter Bailey, and still stands in his name in the records of the State Engineer. The final certificate of the State Engineer, completing the right, has been issued. It grants direct flow and storage rights; and is the first storage right on Spring Creek. (The State granted 205.5 acre-feet for storage, to be obtained whenever available, and 2.1 sec. ft. direct flow from June 10th to Aug 15th, incl. (HWS)) *in ink.*

B. Opinion.

Peter Bailey appears in the records of the Office of the State Engineer, to be the title holder to this application. Either the direct flow of Application No. 2173 must be abandoned for Fields No. 617a, 618, and 619, which will deduct 0.3 sec. ft. from the 2.1 sec. ft. granted, by reducing the acreage of 273.7 acres by 49.3 acres: Or, the earlier priority for these fields must be abandoned. Since each successive priority is supposed to satisfy the needs of a field, if water be available in the source of supply, adding a later right for more water is wasteful.

If no real channel has been excavated connecting Ditch No. 16-a with Ditch No. 16, No. 16-b or any other branch of Ditch No. 16, prior to the issuance of Certificate of Appropriation for Application No. 2173, then no right attaches to Field No. 617 and neighboring land described in the said Certificate, for a total of 4.0 acres, but only the Jaramillo & Bailey Seepage Right applies to said Ditch 16-a.

Further that 205.5 acre-feet of storage water, or one filling of Bailey Lake reservoir, not exceeding this amount, in each year, may be filled from unappropriated waters of Spring Creek whenever available, (but should start and proceed as rapidly as possible after the close of each irrigation season. (HWS) *in ink*.

Field No. 607 must be irrigated through Ditch No. 16-b, if it is to claim rights under Application No. 2173, and Ditch No. 19 be abandoned.

C. Remarks.

It may be noted that the position is taken here that it is not necessary to file an application in the Office of the State Engineer to acquire a right, &, as discussed under General Remarks.

It is known that the State Engineer was either in ignorance that Fields No. 618 and 619 had been irrigated, which is indicated to be the condition by papers relating to this Application, or else he took the only position he could take under his oath (that is of considering the Statute which states that water rights can be acquired in no manner now except by a filing in his office, to be constitutional until passed upon by Utah's Supreme Court). Since each priority is supposed to give sufficient water to properly irrigate an area, if there is enough in the stream, it is manifest that if there is enough water for a later priority, there is for the senior one, and hence adding more water to the senior one would constitute waste.

It appears that some small additions have been made to the fields irrigated in 1914, and that the further construction of the reservoir will enable the irrigation of lands fallow in that year, but the Proof of Construction and Beneficial Use agrees substantially with the data of the Sheley survey in 1914.

It is not clear how some of these fields can be watered from the reservoir, since they appear to be higher in elevation, &.

D. References.

Bailey 1906 Right and, State Engineer Application No. 2173, and Certificate of Appropriation of Water No. 189.

E. Fields.

See the description of land reclaimed in the Certificate of Appropriation, No. 189. Includes Fields No. 602-609, incl; 611 to 613, incl; 617, 617a, 618-622, incl; 624-628, incl.; 631 to 640, incl.; all of which were irrigated in 1914, or had been irrigated some previous year; and some small adjoining areas shown on the map accompanying the final proof, which appear to have been reclaimed since the Sheley survey.

F. Canals.

Spring Creek Ditch No. 16b and canals fed by the reservoir.
Priority 12, of May, 1909.

Containing the equal rights of H.G.Green, Spencer et al
(B. Spencer, W. O. Knight, G. B. Spencer, J. M. Redd).

Green 1909 Right

A. Description.

This marks the resumption of activity in reclamation of more land on the ranch now owned by H. G. Green. It represents activity in 1909 and 1910.

B. Opinion.

That this right be considered equal to that of B. Spencer, W. O. Knight, G. B. Spencer, and J. M. Redd rights of 1909, according to their respective areas irrigated. That a system of rotation may be enforced between these rights. That measurement be made near the headgate of Spring Creek Ditch No. 2. This Right extends to lands irrigated in 1914 and cultivated, and not to so-called "pasture lands." The later application No. 4006 in the Office of the State Engineer is considered not to be abandonment of this right unless effort be made to claim water through it for these same lands.

C. Remarks.

See Green 1898 Right (or Priority 7) for remarks covering this case.

D. References.

Water Users' Claimd Temp. No. 413, 110, et alia.

E. Fields.

(The acreages of individual fields are shown on the Green Area Map, Sheley survey).

Includes 17.8 acres (undivided) in Fields No. 506 to 513, incl., supplementing Priority 7.

F. Canals.

Spring Creek Ditch No. 2 and branches.

Priority 12 Continued.

Spencer (et al) 1909 Right.

A. Description.

This represents the activity of the years 1909 and 1910, by claimants B. Spencer, W. O. Knight, G. B. Spencer and J. M. Redd. It is supplementary in a manner to Priority 10, Spencer and Knight 1907 Right.

B. Opinion.

That this right be considered equal to that of Green-1909, according to the respective areas irrigated. That a system of rotation may be enforced between the rights of this priority. That measurement be made at places of diversion from Spring Creek. Application No. 3952-a in the Office of the State Engineer does not constitute an abandonment of this Right. If claimant is unable to come to terms with Carlisle Ranch, which appears to be entitled to the land irrigated in Field No. 534, he shall have the right to transfer the water right elsewhere without loss of priority (that of Spencer et al 1909) in due accordance with the law.

C. Remarks.

Spencer 1907 Right (Priority 10) gives the reasons in detail for separation of that right and this 1909 right, q.v. This Right is made supplementary, in a manner, to that of 1907, owing to the absence of evidence showing positively what fields were first irrigated. The fields are listed in the "Tabulation of Fields"

as of Spencer 1909 Right, and include all of those listed under Spencer 1907 Right, and Field No. 534 in addition. This latter field has only the 1909 Right, and the ownership of the land and water appears different,, owing to trespass on the land by Spencer et al. Fields No. 551, 552, 554, 558, 558a, get part of their supply from North Fork. It is considered that the 1907 right for J. M. Redd was developed on Field No. 554 and has been used on Fields No. 554 and 558 alternately since then, so is appurtenant to both: Since the latter field is covered by Application No. 4855 to get water from North Fork it would benefit claimant and simplify matters to confine the Spring Creek right to Field 554.

D. References.

Spencer (et al) 1907 Right; the Right of Spencer, J. M. Redd and Knight on North Fork; Water Users' Claim Temp. No. 27, 27a, 27b, 28, 110, 115, et alia.

E. Fields.

(The acreages of all fields are given on the Spencer Area Map, Sheley survey)

For B. Spencer, W. O. Knight, G. B. Spencer 7.0 acres of 1907 Right, 14.9 acres of 1909 Right, all from Spring Creek, applied to Fields 527-531, incl.; 534a; solely of 1909 Right to Field 534 (1.5 acres), all of which obtain their sole supply from Spring Creek; ($\frac{1}{2}$, or 5.1 acres, from Spr. Cr., and $\frac{1}{2}$, or 5.2 acres from North Fork (HWS)) and also / to Fields No. 551, 552, which get water from North Fork (in ink.) also. (Total of 21.5 acres of 1909 Right. (HWS)) in ink.

For J. M. Redd: 9.2 acres of Spring Creek 1907 right, none of 1909, for Fields 554, 558, 558a (The fallow fields been deemed fallow because of use of their water elsewhere, as explained in General Remarks. The fields obtain a part supply from North Fork.

F. Canals.

Spring Creek Nos. 8, 9, 10, 10-a.

Priority (Not on Spring Creek)

Application No. 3667, Dec. 17, 1910.

(This is the application to store the flood waters of North Fork in an enlarged Gordon Reservoir, which is mentioned here because it is proposed to give supplementary irrigation to some of the lands irrigated by Spring Creek.

Priority 13. APPLICATION NO. 3952-a.

A. Description.

This is a part of the segregated Application No. 3952 filed with the State Engineer, April 29, 1911. The other part was allowed to lapse. Claimants are B. Spencer, W. O. Knight, and Geo. B. Spencer.

B. Opinion.

That this Application was not intended to constitute an abandonment of earlier priority of water rights for any of the lands already irrigated, unless insistance be made upon irrigating such fields by virtue of this application; this Application must take the due course of Law. Hereafter lands irrigated by this priority must confine themselves to irrigation through the ditch named in said Application 3952a, as amended.

C. Remarks.

There is much indefiniteness as to what areas are intended to be irrigated under this right, and what by actual appropriation without filing. It has been presumed that wherever land appeared to be irrigated prior to the date of filing of this Application, it was intended to have priority of the date reclaimed, which is to the benefit of claimants.

D. References.

Records of State Engineer for this Application, Changes in Place of use, & Also Water Users' Claims Temp. No. 27, 30, et alia.

E. Fields.

Irrigated in 1914, having been first cultivated that year or earlier, Fields No. 532, 537-540, incl.; and whatever lands that

may be added before expiration of this filing.

F. Canals.

In 1914: Fields No. 532 through Spring Creek Ditch No. ^{(9 HWS) in ink.} 2, Fields No. 537 and 538 through Ditch No. 9. Hereafter they must be irrigated, as are Fields No. 539 and 540, through Ditch No. 7, or a branch thereof, or lose priority. Officially; only Ditch No. 7.

G. Quantity of Water.

According to acreage reclaimed, from year to year, until final proof be made. In 1914, there were 57.9 acres under this right. The filing calls for 3 sec. ft. of unappropriated waters for 240 acres.

Priority 14. TRUJILLO AND MANZANARES 1911 RIGHTS.

A. Description.

These claims were instituted without filing in the Office of the State Engineer, and are subject to the limitations resulting to such failure, although it appears that the claimants did everything within their knowledge to give publicity to their claims. Juan Trujillo and Susano Manzanares are the claimants. These rights were ^{in ink.} instituted (in 1911.) and closed in 1911 by the action of others.

B. Opinion.

That said claimants have equal rights proportionate to their acreages, and may be required to practice rotation in irrigation; that the measurements be made at their headgates: That Trujillo's right be to 0.8 acre in Field No. 505; (and, if it be proven that Spring Creek Ditch No. 1, that of Davenport and Campbell, was built in 1911 or before, claimant may ask for additional judgement for 4 acres in Field No. 502;) and Manzanares in for all of Fields No. 518, 520 and 4 acres in No. 521. Subsequent filings made in the Office of the State Engineer do not constitute abandonment of these rights. Field No. 504 is subirrigated from the adjacent creek without a ditch; no action is taken on it.

C. Remarks.

Owing to Davenport and Campbell, or the owners of Application No. 4370, never having put in a claim, and to the rather common custom of this region being to build a ditch, use the water and then only file with the State Engineer, there may be some question whether their ditch may not have been existant in 1911 so that Trujillo could use it for irrigation. If one should forbid the raising of crops on Field No. 504, which is irrigated by the sub-flow or seepage from Spring Creek, he would cause the replacement of crops useful to man by worthless weeds, without stopping the loss to the creek, or benefiting anyone.

D. References.

Water Users' Claims Temp. No. 14, 17, et alia.

E. Fields.

Trujillo: No. 505, for 0.8 acres.

Manzanares; Field No. 518, 1.1 acre; No. 520, 0.2 acre; undivided part of No. 519; 4 acres. Total 5.3 acres.

F. Canals.

Trujillo: Spring Creek Ditch No. 4.

Manzanares: Spring Creek Ditch No. 8.

Priority 15. APPLICATION NO. 4006.

A. Description.

This is the Application dated May 20, 1911, of H. G. Green, which covers land already irrigated by Spring Creek. At a later date it was modified by changing the place of diversion to agree with the ditch as now built (Spring Creek Ditch No. 2). On Sept. 21, 1915, the final certificate was issued (Certificate of Appropriation of Water No. 219) for 1.135 second-feet, for the irrigation of 79.5 acres, from January 1st to December 31st of each year.

B. Opinion.

The position has been taken and discussed in Green 1898 Right, or Priority 7; and in Green 1909 Right, Priority 12; that this filing seeks to appropriate water already appropriated, and hence can not be of force, without abandonment of these old rights.

C. Remarks.

When it is considered that at the altitude of these lands, which are about 7500 feet above sea level, the season is short and snow lies over them at least three or four months a year, it is obvious that water can not be used throughout the year for irrigation.

D. References.

See Priorities 7 and 12. The original application and the final certificate are present with the exhibits.

E. & F. (See Priorities 7 and 12).

G. Quantity of Water.

(1.135 sec. ft. from Jan. 1 to December 31 by State) None under the interpretation of this work.

Priority 16. APPLICATION NO. 4370.

A. Description.

This is Davenport and Campbells' filing, described in Irrigation Book 13, page 110, in the records of the State Engineer, and filed on December 4, 1911, and abstracted in Water Users' Claim Temp. No. 211. No evidence was presented by the owners. It is known that some land was irrigated in the lower altitude of Dry Valley under this claim, and the water in its ditch has been measured in 1914 and 1915.

B. Opinion.

It must take its course in the Office of the State Engineer.

C. Remarks.

It is regrettable that the Shelley survey did not include the area irrigated in 1914, but it was not understood then that rights

could be instituted except in the Office of the State Engineer, (so that if a filing should lapse the land would have a right never-the-less.) *in ink*. However, the measurements of flow of the ditch are a check on this right.

D. References.

Water Users' Claim Temp. No. 211.

E. Fields.

Not surveyed.

F. Canals.

Spring Creek No. 1.

Priority 17. TRUJILLO, MANZANARES, 1912 (and Carlisle Ranch treated immediately following this).

A. Description.

This embraces the claims of Juan Trujillo and Susano Manzanares, which were interrupted by Applications No. 4006 and 4370. This is dated May 1st, 1912, and covers the development done by these three interests in 1912 and early in 1913.

B. Opinion.

That these claims are equal according to their respective acreage, and likewise equal to Carlisle Ranch 1912 rights, and may be subjected to a system of rotation. They embrace reclamation done in 1912 and 1913 and are held prior to that of Vigil 1913 Right. Measurement for Trujillo shall be made at the head of Ditch No. 1 and added to whatever right may attach to Application No. 4370. Measurements for Manzanares shall be at the diversion points from Spring Creek. The later filings with the State Engineer to cover these older claims does not constitute abandonment of the old rights, unless a double claim be set up for water.

C. Remarks.

These rights are the conclusions of the old ones instituted in 1911.

D. References.

Priority 13 and Water Users' Claims Temp. No. 14, 17, et alia.

E. Fields.

(The acreage of each field may be seen on Green and Spencer Area Maps); For Trujillo: Fields No. 501, 502, 502a, 503, total 15.7 acres. For Manzanares: Fields No. 519, 522, 523, total 10.9 acres; and 4.8 acres, undivided, in Field No. 520, which latter has a 1911 right as well.

F. Canals.

For Trujillo: Spring Creek Ditch No. 1 and branches.

For Manzanares: Spring Creek Ditch No. 7 and No. 8.

Priority 17 (Cont.) CARLISLE RANCH 1912 RIGHT.

This is equal to that of Trujillo and Manzanares-1912.

A. Description.

This represents the renewed activity of Carlisle Ranch in 1912 and 1913, for irrigation from both Spring Creek and North Fork. It is to be disposed of similarly to the Carlisle Ranch 1887, 1897, and 1904 Rights.

B. Opinion.

This claim is equal to the Trujillo and Manzanares-1912 Rights, according to their respective acreages. As with the earlier Carlisle Ranch priorities on Spring Creek, the supply of irrigation water is drawn equally from Spring Creek and North Fork, when available, and any deficiency in either stream may be made up further diversion from the other if available (and unappropriated) there.

Summarizing the Carlisle Ranch diversions from Spring Creek, it may be said that their multiplicity is unnecessary, many fields having two means for the conveyance of water to them from said creek. Such methods are wasteful of water, and expensive in maintenance. For instance it is suggested that the heading of Ditch No. 12 be abandoned and it be served by a flume over the creek to be fed by Ditch No. 11, which latter ditch could also feed the ditch that is now supplied by headings of Ditch No. 11 and Ditch No. 14-a. The necessity of Ditch No. 14 is not manifest.

Whenever water from North Fork is emptied into Spring Creek by Carlisle Ranch, with the view of using Spring Creek as a natural channel and of rediverting this water further down, measuring devices must be installed and maintained by Carlisle Ranch to measure this North Fork water at the point of delivery to Spring Creek, otherwise it must be considered abandoned water. Of course on its recovery it must stand its share of any seepage loss in the distance it travels in Spring Creek. A better procedure would be to cross Spring Creek on a flume, and avoid this commingling of waters.

C. Remarks.

This is the final right of Carlisle Ranch to irrigate from both Spring Creek and North Fork.

D. References.

Water Users' Claim Temp. No. 31 (incl. A,B,&); 32; 33 to 39 incl; 101 to 111, incl; 113 to 117, incl; et alia.

E. Fields.

(Acreage of each field is shown on Sheley map of Spencer Area). Includes Fields No. 557 - 562, incl., 569 and 570 for 98.7 acres and a fallow Field No. 557a for which no right attaches save that of alternative irrigation at the expense of a like area in the other fields. Its area is 12.8 acres.

F. Canals.

Spring Creek Ditches No. 11, 14a, and 12. Carlisle ditch from North Fork.

Priority 18. VIGIL 1913 RIGHT.

A. Description.

This is a right instituted in 1913 by cleaning an existing ditch and applying water to new land whose area was enlarged the next year. Claimant is Abelardo Vigil.

B. Opinion.

That he be granted the priority indicated. That measurement be made near the intake of Spring Creek Ditch No. 8.

D. References.

Water Users' Claim Temp. No. 18, et alia.

E. Fields.

(The acreage of each field is shown on map of Spencer area).

Includes Fields No. 524, 525, 526; (Total, 8.2 acres. HWS) *in ink*

Priority 19. APPLICATION NO. 5476. (HWS)

A. Description.

This application to irrigate 800 acres of land in Dry Valley, was made by Sybil H. Frost, Oct. 11, 1913. The point of diversion named is 300 ft. above that of the Davenport ditch, Spring Creek Ditch No. 1, with the same bearing from the same section corner, indicating an error in distance. In Dry Valley the points of diversion of these applications are alike.

B. Opinion.

This application takes its course in the Office of the State Engineer, &.

C. Remarks.

No evidence other than the State Engineers application is available for this work. It is not considere that water can be used beneficially for irrigation during the ordinary winter of Dry Valley which is 6,000 ft. above sea level.

D. References.

(HWS)
Application No. 5476, Water Users' Claim Temp. No. 212 for abstract.

E. Fields.

Not surveyed by Sheley.

F. Canals.

The diversion above Spring Creek Ditch No. 1 had not been started in June, 1914.

G. Quantity of Water.

Applicant has a provisional right for 10 sec. ft. from January 1st to December 31st of each year.

Priority 20. APPLICATION NO. 5621.

A. Description.

This filing was made by F. I. Jones & Sons Co. on April 1st, 1914, and calls for 25 sec. ft. for irrigation of 1600 acres in Dry Valley in February, March, April, August, and September of each year, and the rest of the year for domestic purposes.

B. Opinion.

This filing must take its course in the Office of the State Engineer. It will be entitled to water each year in proportion to the acreage ready for it that year, until final proof be made.

C. Remarks.

D. References.

See Water Users' Claim Temp. No. 208, and State Engineers records.

E. Fields.

F. Canals.

Not started when Sheley survey made in 1914 so far as known.

Priority 21. L. TRUJILLO 1914 RIGHT.

A. Description.

This is the last claim known, which is based upon construction and irrigation, but has no filing. It was instituted in May, 1914, and completed then.

B. Opinion.

That this claim is junior in right to Application No. 5621; which must be satisfied first. That measurement be made at the heads of the canals.

C. Remarks.

If Application No. 5472 and No. 5621 be carried out to their full extent, without loss of priority, there will be little, if any, water left for any appropriation of natural flow by junior appropriators. Until that time this priority may get the water it is nominally entitled to and if said Applications should lapse, it then would have a better title, but subject to areas that have been actually irrigated

by these applications prior to May, 1914.

D. References.

Water Users' Claim Temp. No. 18, et alia.

E. Fields.

(Acreage of all fields shown on Green Area Map) Includes
Fields No. 524, 525, 526, for 8.2 acres.

F. Canals.

Spring Creek No. 5 and No. 6.

SUCCESSIVE PRIORITIES.

A. Description.

State Engineer's Applications No. 5883, 5973, 6061, 6093,
6103, 6104, 6218, 6222, 6257.

B. Opinion.

Said applications must take their course in the State Engineer's Office, &.

C. Remarks.

Inspection of the water supply available in Spring Creek, and of the amounts of water already appropriated, and now filed on by these pending applications, shows without need of argument that Spring Creek is over appropriated.

D. References.

Application No.	5883	is abstracted in	Water Users' Claim Temp.	#	209
"	"	5973	"	"	213
"	"	6061	"	"	214
"	"	6093	"	"	215
"	"	6103	"	"	216
"	"	6104	"	"	217
"	"	6218	"	"	224
"	"	6222	"	"	225
"	"	6257	"	"	226

Also see records of the State Engineer.

E. Fields.

No land was irrigated under these water rights (unless they are supplementary to older rights) in Spring Creek Basin in 1914, but some may have been in Dry Valley which was not covered by the Sheley, 1914, survey.

F. Canals.

Mostly not started in 1914.

G. Quantity of Water.

See the provisional grants given by the State Engineer. These nine applications call for the irrigation of 9695 acres of land, by 6,240 acre-feet of stored water, and 23.25 sec. ft. of natural flow.

SEEPAGE RIGHTS

IN SPRING CREEK BASIN.

I. Explanation.

The difficult question of seepage and waste waters is discussed more fully in General Remarks. Appropriations of seepage or waste waters are subject to priorities, but the appropriator has no redress if the cause of the seepage or wasteage is removed, or if the owner of the land himself appropriates the water for his own use on his own land.

II. Excludes

Water that runs off the surface of a field, whether it is avoidable or the unavoidable waste incident to irrigation, and reaches a watercourse, is held to constitute a part of the flow of said water-course, and is liable to the priorities of said stream as if a natural tributary thereof.

III. Includes

Water that would not reach a watercourse, whether a surface^{OR} subsoil flow.

IV. Appropriations in Spring Creek Basin.

There are these cases in this basin: Juan Trujillo; L. H. Redd; Carlisle Ranch and H. D. Dalton, Jr; Carlisle Ranch; Jaramillo and Bailey. Taking them up in their order, which does not infer any priority whatsoever.

1. Juan Trujillo Seepage Right.

A. Description.

There is no ditch for this field (No. 504) and really it is irrigated by the sub-flow of Spring Creek.

B. Opinion.

That no claim for a ditch furrow, or floosing of this field exists, but only a right to farm the field.

C. Remarks.

It is considered that the cultivation and growth of useful plants on the field is perhaps less of a draft on the subflow of the Creek than the natural growth of willows and weeds would be, and therefore perhaps a benefit to the appropriators below.

D. References.

Water Users' Claims Temp. No. 14, et alia.

E. Fields.

No. 504 for 0.4 acres.

F. Canals. (None)

G. Quantity of Water.

None granted nor withheld.

2. L. H. Redd.

A. Description.

An unnamed ditch collecting seepage water below Field No. 516, which may or may not have its source in the irrigation of that field, irrigated Field No. 517, which was poorly cultivated in 1914.

B. Opinion.

Of course, this appropriation is subject to the general laws of such appropriations: It has no right to water from Ditch No. 6.

C. Remarks.

This water probably would not reach the nearby creek, unless by subflow, but would evaporate, if not collected into a ditch.

D. References.

No specific and descriptive reference to this appropriation in the claims of water users.

E. Fields.

One only, No. 517, for 6.5 acres.

F. Canals.

An unnamed ditch.

G. Quantity of Water.

Not known.

3. Carlisle Ranch and H.D. Dalton, Jr.

Seepage Ditch No. 573.

A. Description.

A ditch collecting waste and seepage water from a boggy place, three hundred feet east of the old "white house;" of the Carlises, crossing the county road and irrigating a number of fields.

B. Opinion.

This ditch has nothing that would comply with legal descriptions of a channel and is merely a collector of waste and seepage water. Therefore it has no claims upon Spring Creek or North Fork as a certain user of their waters. Carlisle Ranch has the prior right on it for Field No. 579, and for No. 580, if there happens to be insufficient water in Spring Creek to satisfy its rights, and then comes the right of H. D. Dalton for irrigation of Field 578.

C. Remarks.

Its flow is small and has not been measured.

D. References.

None explicitly in water claims.

E. Fields.

No. 579, supplementary to No. 580, and No. 578. Total 7.1 acres

F. Canals.

Seepage Ditch No. 573.

G. Quantity of Water.

Un known.

4. Carlisle Ranch. Seepage Ditch No. 594.

A. Description.

This ditch collectes seepage and waste waters in Field No. 594, north of Carlisle ranch houses, crosses the state road and irrigates

fields No. 595. There is no channel feeding this ditch.

B. Opinion.

No right to a simple appropriation of the waters of any water-course exist, but only seepage and waste water rights. The priority is of 1906.

C. Remarks.

Field plowed in 1906.

D. References.

The only explicit reference is Water User Temp. Claim No. 108, and Carlisle Ranch claims.

E. Field.

Only No. 595 for 11.7 acres.

F. Canals.

Seepage Ditch No. 594.

G. Quantity of Water.

Unknown.

5. Jaramillo and Bailey.

Ditch No. 16-a.

A. Description.

A ditch rises in the east end of Field No. 598 which, at the time of the Sheley survey in 1914, had nothing that could in any manner be called a channel to connect it with any other ditch that could deliver it water from Spring Creek. This ditch irrigates some of Bartolo Jaramillo's land then Peter Baileys.

B. Opinion.

That nothing but seepage or waste water rights attach to this ditch, because of the lack of a channel to feed it from Spring Creek. If Peter Bailey has not constructed a well defined channel to join Spring Creek Ditch 16, or a branch thereof, since the date of the Sheley survey in June 1914, and prior to the issuance of the Certificate of Appropriation for Application No. 2173, he has no right to convey water through it of that priority, but only a seepage right therein.

If Peter Bailey, since the issuance of said certificate has connected said ditch with Spring Creek, or Jaramillo has done so at any time, the priority of the water of SPring Creek is later than June 1914. Jaramillo has a prior claim to the seepage water of 1907. If this were construed to be a real appropriation of Spring Creek water, the priority for Jaramillo would be of date 1907.

C. Remarks.

Jaramillo appears to have started construction in 1907; and Bailey to have devoted attention elsewhere at least in 1906 and 1907.

D. References.

Jaramillo: Water User Claim Temp. No. 20, et alia

Bailey: " " " " No. 23, 23a, et alia.

E. Fields.

(Acreage of each field on Bailey Lake Area Map)

Jaramillo: Fields No. 615, 616, 616-a, 616-b, total 11.7 acres.

Bailey: Field 617 for 1.7 acres.

F. Canals.

Ditch No. 16-b.

G. Quantity of Water.

Unknown.

NORTH FORK RIGHTS

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(Signed) HWS.

RIGHTS ON "NORTH FORK"

Priority 1. CARLISLE RANCH and

BLUE MOUNTAIN IRRIGATION CO. RIGHTS.

A. Description.

(1) These are the early, or primary rights, of the above named interests to the flow of North Fork until the filing of Application No. 1268 in the Office of the State Engineer, by J. H. Wood et al. This covers a period from 1886 or 1887 until March, 1907.

(2) This includes the Carlisle 1887, 1897, and 1904 Rights, so called in the discussion of Spring Creek rights, or Priorities 2, 6, and 8 of that stream, but not the Carlisle 1912 Right, nor any Carlisle applications in the Office of the State Engineer. The Carlisle 1896 Right is for storage of waters in the non-irrigation season and is discussed separately.

(3) The Blue Mountain Irrigation Company and its predecessors had several periods when it enlarged its ditches, as did the Carlisle Ranch; all of its development appears to have been made in a score of years beginning with 1887 A.D.

The early rights of the residents of Monticello town are embraced in this right of the Blue Mountain Irrigation Co. The right to Soldier Spring is included herein.

B. Opinion.

(1) Carlisle Rights. Under Spring Creek Rights it is stated that Carlisle Ranch shall satisfy Priorities 2, 6, and 8, its rights of 1887, 1897 and 1904, respectively, by diverting equal amounts of water from Spring Creek and North Fork, or by further diversion from either stream to make up deficiencies in the other. A total allowance of 1.5 sec. ft. is made to the diversion from North Fork to overcome seepage losses in the long canal from that stream, but this is not added in the so-called "equal" amount.

There are 263.3 acres of water rights in these rights which may be used alternately on certain fallow and swamp lands without this action being considered a change in the place of use. From May 1st to 31st, inclusive, of each year, 2.4 sec. ft. may be used in the irrigation of this land. Of this amount 1.2 sec. ft. shall be diverted from Spring Creek; and 1.2 from North Fork with the addition of 1.5 sec. ft. to provide for seepage loss, or 2.7 sec. ft. from North Fork. As stated, any deficiency from either stream may be made up by further appropriation from the other, so 2.4 may be appropriated from Spring Creek, as a maximum while none is available in North Fork; or, vice versa, a 3.9 sec. ft. maximum may be appropriated from North Fork.

In the period June 1 to 15th, incl., the supply is fixed at 3.0 sec. ft.: giving a normal right of 1.5 sec. ft. from Spring Creek, and a maximum of 3.0 sec. ft. if North Fork fails entirely; and a normal right of 1.5 sec. ft., plus 1.5 sec. ft. for losses in the canal, or 3.0 sec. ft. total from North Fork, and a maximum of 4.5 sec. ft.

In the period June 1st to August 31st, inclusive, the supply is fixed at 4.0 sec. ft.: giving a normal right of 2.0 sec. ft. from Spring Creek, and a maximum of 4.0 sec. ft.; and a normal amount of 2.0 plus 1.5 sec. ft., equal to 3.5 sec. ft. from North Fork, and a maximum of 5.5 sec. ft.

(2) Blue Mountain Irrigation Co. Rights.

Under South Fork Rights it is stated that the Blue Mountain Irrigation Co. shall take two-thirds of the water given it from North Fork, and the balance from South Fork; any deficiency in the amount due by either stream being made up by further diversion from the other. All allowance of 0.5 sec. ft. is made for seepage losses in the canal from South Fork, in addition.

There are 648.1 acres under Blue Mountain Ditch No. 1; and 653.1 acres under No. 4, a total of 1301.2 acres of water rights of the Blue Mountain Irrigation Co. alone, not including its fallow or swampy lands, which are alternative places of use.

Besides the allowance of 0.5 sec. ft. (practically 5 to 10%) for

seepage losses in the canal from South Fork, this claimant is entitled to a flow of 6.5 sec. ft., from May 1st to 31st, incl. divided into 4.3 from North Fork, and 2.2 from South Fork; (See correction for seepage) or a maximum possible of 6.5 sec. ft. from either alone. (Corrected to 6.5 plus 0.5, equal to 7.0 sec. ft. from South Fork).

From June 1st to 15th, incl., claimant is entitled to 15 sec. ft., of which 10 sec. ft. is from North Fork and 5 from South Fork; or a maximum of 15 sec. ft. from either alone (plus seepage allowance).

From June 16th to August 31st incl., claimant is entitled to 21 sec. ft., of which 14 shall be from North Fork, and 7 from South Fork; or a maximum 21 from North Fork, and 15 sec. ft., which is the present capacity of the canal from South Fork. (Blue Mtn. Ditch No. 2). (3)(Penciled)

(3) Measurements of the three rights shall be made not far from the point of diversion from North Fork, and suitable devices therefor, and for control of the canal by lock gates, must be provided by claimants. Also the diversion works must be kept so as to prevent unreasonable loss by seepage through them, such as is present at the diversion dam of Blue Mountain Ditch No. 1, at times.

(4) While it may appear that the opinions of the rights of Carlisle Ranch and Blue Mountain Irrigation Co. are in conflict with each other, such is not the fact, as may be shown.

The key to the situation is this; Carlisle Ranch and Blue Mountain Irrigation Co. both have rights of equal priority upon North Fork; the former has rights in Spring Creek, the latter none at all in this stream; Blue Mountain Irrigation Co. has rights in South Fork creek, Carlisle Ranch none whatever:

For the purpose of unraveling the inter-twined rights of these claimants on North Fork, we may regard the water that comes from Spring Creek and South Fork as so much rain water, or sub-flow, and

therefore beyond the control of claimants but yet affecting the question of how much water is needed. In other words we may disregard the rights of claimants upon other streams for the time being. During the irrigation season May 1st to August 31st, incl., if the total flow of North Fork, measured preferably near the head (3) (written in ink) of Blue Mtn. Ditch No. 2, or, with whatever allowance for seepage that may be necessary, at its division point between Carlisle Ranch and Blue Mountain Irrigation Co., falls below four (4) second,feet, it shall be divided equally between both of said claimants. Provided, if such divided stream reaches the lands of one claimant, but not even in part those of the other, it shall not be wasted by being held in said channel but it shall be turned into the channel where it does do benefit, until it increases or until such time as other causes may enable it to reach the lands of both claimants. If a system of rotation be found practicable, it may be enforced on said claimants during said low stage of flow.

When the flow exceeds 4 sec. ft., the four sec. ft. shall be considered to include the 1.5 sec. ft. of Carlisle Ranch for seepage, and 0.5 sec. ft. of its share for irrigation; and the surplus shall be divided 1/5th to Carlisle Ranch, 4/5th to Blue Mountain Irrigation Co., until either right receives its full share of water, and then the balance goes to satisfy the right of the other.

(5) Neither Carlisle Ranch nor Blue Mountain Irrigation Co. shall be allowed to draw more upon Spring Creek or South Fork, than the foregoing opinions state, in order to benefit the other,-which would injure some other claimant on such said Spring Creek or South Fork.

(6) In the non-irrigation season, the Blue Mountain Irr. Co. shall be entitled to whatever water it can use beneficially for municipal supply, or domestic and stockwatering purposes, not to exceed 2 sec. ft. measured at the intake. This right is superior to that of Priority 2, &., the means of diversion being either Blue Mountain Ditch No. 1 or No. 4. This amount of water can not be wasted by claimant, owing to the installation of another system of

better quality.

C. Remarks.

It is well established by oral testimony and legal documents that in-so-far as their powers extended, Carlisle Ranch and Blue Mountain Irrigation agreed to divide the low water flow of North Fork equally between them.

The ditch of Carlisle Ranch is very much longer between its head and the first place of use than is any Blue Mountain Irrigation Co. ditch, hence is allowed water to care for seepage and evaporation losses en transit, which allowances will care for later appropriators through the same stream.

The reason that three rights on Spring Creek are combined into one on North Fork, is that no rights intervened on North Fork until 1907.

One half of the irrigated area of Blue Mountain Irrigation Co. is irrigated by Blue Mtn. Ditch No. 4, entirely from North Fork, and the other half by Blue Mtn. Ditch No. 1 which, under this opinion of what has been the practice, gets one third of its supply from North Fork and two thirds from South Fork.

D. References.

For Carlisle Ranch; Water Users' Claims Temp. No. 31 (A,B,&), 32 to 37, incl., 101, 102, 103, 107 to 115, incl. et alia. See also Priorities 2, 6, and 8 on Spring Creek.

For Blue Mtn. Irrigation Co., Water Users Claims Temp. No. 11, 31F, 39, 50, 55, 56, 58, 115, 116, 117, et alia. See also Priority 1 on South Fork Creek.

E. Fields.

The acreage of each field is given in the index to fields, and the acreage and kind of crop on the Sheley maps.

(1) Carlisle Ranch.

1887. Fields No. 563-568, incl; 10 acres of No. 571; Nos. 584-588, incl. 590, 587a, 594; total 166.5 acres, and alternative use on swampy Field No. 587, 9.9 acres, and likewise No. 589, 9.2 acres, total 19.1 acres.

1897. Fields No. 533, 533a, and 553 with total acreage and right of 16.7 acres.

1904. Fields No. 535, 535a, 536, 581, 582, 583, 593, 595; Total acreage and right 80.1 acres.

Grand total 263.3 acres of rights, and alternation use on 19.1 acres of land now swampy.

(2) Blue Mountain Irrigation Co.

Under Blue Mtn. Ditch No. 3 and No. 4, getting water from North Fork only, Fields No. 200 (34.0 acres of Monticello town), 210-223, incl., 223a, 224a, 273a, 273b, 276, 277, 279a, 280, 281; 287-307, incl.; 310-341, incl.; 325a, 343, 344, 345, 387, 424, 425, 426, 430, 432; 434-439, incl.; 442-446, incl.; 457, 458, 459; 461-472, incl; 472a, 474, 475; total 653.1 acres of rights.

Under the same ditch and forming alternative places of use, Fallow land (in 1914), Fields No. 273c, 282, 308, 309, 317, 342, 431, 433, 441, 456, 460, 466, 472-b, 473, 474a; total acreage, 77.7. Swampy, Field No. 440, 1.0 acre.

Under Blue Mtn. Ditches No. 1, which receives water from No. 4 as well, and No. 2, getting water from both North Fork and South Fork, Fields No. 200 (43.5 acre of Monticello town); 207, 208, 214a, 214b; 224-238, incl.; 229-a; 240; 243-258, incl.; 260, 261; 263-271, incl.; 273, 275, 278, 279; 283-286, incl.; 347-355, incl.; 370, 372, 373, 376-381, incl.; 383-386, incl.; 388-391, incl.; 395, 415, 420-423, incl.; 423a, 428; total 648.1 acres of rights.

Under the same ditches ^{in ink} (No. 1 and No. 2,) and forming alternative places of use: Fallow land (in 1914) Fields No. 239, 241, 259, 262, 272, 374, 375, 382, 392, 422, 427; total acreage of 112.8. Swampy lands, Fields No. 593, 416, 418, 419, 429; total acreage of 16.8.

F. Canals.

(1) Carlisle Ranch, from North Fork the so called Gordon, or Gordon and Carlisle, or Carlisle Ditch, called by the latter name herein, which is a branch of Blue Mtn. Ditch No. 3, and Spring Creek

ditches named under Spring Creek Rights of Carlisle Ranch.

(2) Blue Mtn. Irrigation Co: Blue Mtn. Ditch No. 1, which heads in North Fork just below the U. S. Forest Service Station, Blue Mtn. Ditch No. 3, sometimes called No. 4 extension; that is the highest diversion on North Fork; Blue Mtn. Ditch No. 4, the middle ditch from North Fork; and Blue Mtn. Ditch No. 2, sometimes called No. 1 extension, that feeds North Fork with water from South Fork.

Priority 2. CARLISLE 1896 RIGHT.

A. Description.

This is the storage right in the so-called Gordon Reservoir formed by the agreement of 1896 between Carlisle Ranch and the early settlers of Monticello, who formed the Blue Mountain Irrigation Co., and by subsequent construction work. The reservoir is fed through Blue Mtn. Ditch No. 3, and then the branch of it called herein the Carlisle Ditch and is situated in Sec. 16, T. 33 S., R. 23 E. SIM. In 1913 or 1914 the dam burst, and it has not been rebuilt since. The old reservoir, which is the basis of this right, stored water to the elevation within 2 feet of the top of the dam, or 10 feet above the outlet culvert, covered 9.6 acres when full, and held 36 acre feet. Carlisle Ranch is the claimant.

B. Opinion.

This is the oldest storage right in the district. The reservoir should be filled as soon after the close of the irrigation season as the senior rights of the Blue Mountain Irrigation Co. for municipal supply will permit, and it shall be entitled to have 36 acre feet on March 31st of each year. If unable to obtain this amount earlier than this time, claimants shall be entitled to add enough water to fill the reservoir during the irrigation season, subject to Priority 1, and to the provision that the reservoir must be filled as rapidly and soon as possible.

The water may be used beneficially whenever or wherever needed.

The filing in the Office of the State Engineer, numbered 3667 is not an abandonment of this right, but supplementary thereto. If the dam be (written in ink) /not rebuilt in reasonable time, this right is subject to the laws of abandonment, however.

C. Remarks.

This reservoir right is subject to the general provisions and laws for reservoirs.

D. References.

Water Users Claim, Temp. No. 50; Temp. No. 113 for Sheley's contour map.

E. Fields.

Wherever needed.

F. Canals.

Fed by Carlisle Ditch branch of Blue Mtn. No. 3, and releases into Spring Creek.

Priority 3. TOWN POND.

A. Description.

Claimant is believed to be either Blue Mountain Irrigation Co. or J. P. Jones. The facts appear to be that this is an early right, second only as a storage right to the Gordon Reservoir. The reservoir is 850 ft. west of the 1/4 Corner between Secs. 25 and 36, T. 33 S. R. 23 E. S.L.M., covers 1.3 acres at high water to a maximum depth of 6 feet, and holds 2.6 acre-feet.

B. Opinion.

It shall be filled in the non-irrigation season from September 1st to March 31st, subject to the senior rights of Monticello (Blue Mountain Irrigation Co.) for municipal supply, and to the rights of Gordon Reservoir. It may be refilled by the direct flow of Blue Mtn. Ditch No. 4 during the irrigation season for the purpose of giving a greater head, or any like purpose, but such supply shall not be in addition to the amount given by opinions in Priority 1.

Water stored before March 31st may be used beneficially anywhere. After that, only on fields of Priority 1, Blue Mtn. Irrigation Co. claim.

The use is for irrigation or municipal purposes.

C. Remarks.

D. References.

None specifically, see generally, priority 1. Blue Mtn. Irrigation Co. claim.

E. Fields.

Wherever needed, and those of Priority 1.

F. Canals.

Fed by Blue Mtn. Ditch No. 4, and releases into that ditch.

Priority 4. Application No. 1268.

A. Description.

This includes only the lands technically belonging to this Application. This right belongs to J. H. Wood and A. S. Wood as a matter of record. The filing was made March 23, 1907, and with it terminated the right of Carlisle Ranch and Blue Mountain Irrigation Co. to increase the sizes of their canals, as of the senior right on North Fork, namely Priority 1. The diversion is made through Blue Mtn. Ditch No. 4; part of the land is entirely irrigated through the ditches of the Blue Mtn. Irrigation Co., and another part through the Wood (highwater) Ditch, a northerly branch of Blue Mtn. Ditch No. 4. This application was approved by the State Engineer, and proof of construction of work and beneficial use was made March 6, 1911, but in such a form it could not be accepted by the State. The matter is still pending.

B. Opinion.

Owing to its length, and in proportion to the area under it, the Wood branch shall be entitled to 0.5 sec. ft. additional allowance for unusual seepage losses, whenever it is entitled to a flow and there is water in it. However, the water under this right shall be distributed by rotation, to avoid waste.

All measurement of water for this right shall be made at the place of measurement for Blue Mtn. Irrigation Co. rights, on Ditch No. 4. The Wood branch shall be measured at its point of separation from Ditch No. 4.

This claimant must stand an equal share, in proportion to the flow given it, of the ordinary seepage losses on the way to its fields, through the Blue Mtn. ditches.

The area held to be entitled to a priority as of the date of the filing of this Application, is that named both in the application and in the proof of completion and application to beneficial use, which was filed with the State Engineer on March 6th, 1911. No other acreage can take priority by virtue of this Application.

From May 1st to 31st, incl., of each year the water given to this right shall be at the rate of 1 sec. ft. for 120 acres; from June 1st to August 31st it shall be at the rate of 1 sec. ft. for 60 acres; or 1.1 and 2.2 sec. ft., respectively, whenever available, for 130.5 acres.

There is no question that an applicant, who relies upon a filing in the Office of the State Engineer to carry his priority back to the date of filing, must comply in all respects with the rules of said office, until the final certificate be issued. Therefore, until such time at least, said claimant must return the use of water, originally used on Field No. 448-a, to that field; suffer loss of priority; or else file an application for change of place of use. This also applies to 36 acres (unsurveyed) by Sheley) in NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 19, adjoining Field No. 4447-a. Likewise the proportion of water of Field No. 408, must be withheld from Applicant, until he drains the now water-logged land, or until he files an application for change in place of use. Total 49.3 acres.

C. Remarks.

It is considered that said proof of completion would include every possible acre, in order to get as large a water right as possible; in fact some lands which were not included in the original application were listed in the proof. Therefore any omission of lands from the written proof and accompanying map, which were named in the original application as lands-to-be-irrigated, is considered to be conclusive evidence that they were not irrigated before March 6, 1911.

The other fields which were denied this priority are described in Wood 1910, 1912, and 1913 rights.

D. References.

Water Users Claim Temp. No. 12, no et alia; records in the Office of the State Engineer.

E. Fields.

The area of each field is given in the index to fields and on the Sheley maps, which latter also give the kind of crops.

Under Blue Mtn. Ditch No. 1., Fields No. 363 b, 397b, 405, 407, 408, total 75.8 acres of rights. Under Ditch No. 4, Fields No. 447a, 447b, 448a, total, 14.9 acres. Under Wood branch, No. 450a, for 3.8 acres; And 36 acres, not surveyed by Sheley because ~~fallow~~ not irrigated (written in ink) in 1914, in the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 19, T. 33 S., R. 24 E. S.L.M. Making a grand total of 130.5 acres, including fallow and swampy lands.

Fallow land included: Fields No. 448a (5.2 acres) and the unsurveyed 35 acres, swampy land: Field No. 408, (presumed alright in 1910, and waterlogged by over-irrigation of land adjoining, or above, since then), 8.1 acres.

F. Canals.

Blue Mtn. Ditches No. 4, and then No. 1, and Wood highwater ditch (a branch of No. 4). The means of diversion from North Fork is Ditch No. 4.

Priority 5. Redd 1907 Right.

A. Description.

This includes the so-called Redd 1909 Right as mentioned in the discussion of Spring Creek rights, as it now seems that no other right intervened on North Fork between 1907 and 1909.

It includes the rights of J. M. Redd, W. O. Knight, and B. Spencer to the flow of North Fork, acquired through the enlargement of Carlisle ditch, the diversion of water, and its application to beneficial use. It mingles North Fork water with that from Spring Creek acquired under Spencer 1907 and Spencer 1909 Rights, to irrigate lands in Spring Creek basin.

B. Opinion.

It is considered that the allowance of 1.5 sec. ft. for seepage loss in the Carlisle ditch, made to Carlisle Ranch, will prevent any exceptional loss to junior interests, since there will be no water for junior interests if there is none for Carlisle Ranch and the ditch is dry.

Of this right B. Spencer is entitled to 11.4 acres for the irrigation of Fields No. 546, 549, 550 solely from North Fork; and to 5.2 acres of North Fork water for the irrigation of Fields No. 551 and 552, which get water from Spring Creek, too.

W. O. Knight is entitled to 1 acre of right to Field No. 541, and Application No. 4855 therefor does not constitute abandonment of this right.

J. M. Redd is entitled to 7.3 acres of North Fork water (together with Spring Creek Priority 10 right for 9.2 acres) to irrigate Fields No. 554, 558, 558a. Since Application No. 4855 does not cover Field No. 554, but includes the others, it is supposed that this 1907 Right will be confined to Field No. 554, giving it a complete right. This action is optional with claimant, however.

Total acreage of water rights, 24.9. A system of rotation of water shall be applied to these interests. The flow shall be at the rate of 1/120th of a sec. ft. to the acre, May 1st-31st, and 1/60th of a sec. ft. thereafter so long as available, until August 31st, or 0.21 and 0.41 sec. ft., respectively.

C. Remarks.

In 1914, this right would have terminated on June 22nd, and in 1915 on June 24th, owing to low water in North Fork.

D. References.

See Spencer 1907 and 1909 Rights on Spring Creek, Priorities 10 and 12; and Water Users Claims, Temp. No. 27a, 27b, 29, 110, 115, 116 et alia.

E. Fields.

(Area of each field is given in the tabulation of fields, and on the Sheley maps, together with crops.) See Opinion. Fields No. 541, 546, 549-552, incl., 554, 558, 558a, total of 24.9 acres of water rights.

F. Canals.

Carlisle Ditch from North Fork.

Priority 6. WOOD 1910 RIGHT.

A. Description.

This is land irrigated in 1914, or before, belonging to J. B. Decker, for which a claim for water was sought by proof of completion of works for Application No. 1268, and denied herein as the State Engineer must deny it.

B. Opinion.

The affidavit of the surveyor and Wood Brothers before March 6, 1911, stated that land of this Right already had been irrigated in certain legal subdivisions. This is granted, but it is certain that the areas reclaimed were overstated.

The statement of Wood Bros. that they first used the water in May and June, 1910, (Claim Temp. No. 12, Question 10-b), and the said proof of completion of work, together fix the time of priority as the irrigation season of 1910.

The flow of water deemed necessary and of established right is at the rate of 1 sec. ft. to 120 acres from May 1st to 31st, and 1 sec. ft. to 60 acres from June 1st to August 31st, whenever available out of unappropriated waters, or 0.8 and 1.6 sec. ft., respectively for 97.6 acres of land.

C. Remarks.

Since no filing was made with the State, these lands take the priority of the date they were actually irrigated, and not that of the construction of the ditch. See such matters discussed more fully in General Remarks. Legal sub-divisions of Fields No. 357a, 359, 360a, and 362 were shown on the map but not in the written proof. Legal subdivisions of Fields No. 357, 358, 360, 361, and 363a, were shown in

the written matter but not on the map. Perhaps only one of these areas should have been chosen: the matter is debatable.

D. References.

Water Users Claim, Temp. No. 12, No. 220, State Engineers voluminous records of Application No. 1268; Priority 4.

E. Fields.

(Acreage of each field may be obtained from the Tabulation of Fields, or from the Sheley maps). The list has already been given under Remarks: of these fields 97.6 acres were irrigated in 1914; and Field No. 361 was fallow (2.2 acres) no right except being an alternate place of use attaching thereto.

F. Canals.

Through Blue Mtn. Ditch No 4. into No. 1

Priority 7. APPLICATION No. 3667.

A. Description.

This is the proposed enlargement of the Gordon Reservoir. The application is held by L. H. Redd, so far as the records in the Office of the State Engineer show. It is proposed to divert North Fork water through Carlisle Ditch (?), raise the dam to a height of 65 feet, to cover 30 acres of land, and store 2000 acre-feet whenever it may be available. No direct or natural flow was applied for. It is proposed to irrigate 3840 acres in whole or in part from the reservoir.

B. Opinion.

This storage right is junior to the storage rights of Priorities 2 and 3, and to the municipal uses of water of Priority 1, in the non-irrigation season. As soon as unappropriated water is available at the close of the irrigation season, claimants shall begin filling the reservoir, in order to interfere as little as possible with junior rights for the natural flow of North Fork.

This Application is subject to the rules of the State Engineer, who set not later than March 12, 1917, for the time to file proof of its completion.